Point of Order regarding Presentation of petition.

Mr. C. V. Kuriyan.—Under Standing Order 60, I beg leave of the President to present a petition to the Council signed by 700 signatories, relating to the Kuries Bill under consideration. Under the Standing Order I am permitted to speak, in brief, about the material allegations alleged in the petition. The objection relates to the Kuries Bill, section (4).

Mr. A. B. Salem.—On a point of order, Sir. The Hon'ble Member will not be in order to bring this matter up till the matter is taken into consideration, under Standing Order 60 (i) (a).

President.—The petition relates to the Kuri Bill. You can present it afterwards.

Cutchi Memon Succession Bill.

President.—Mr. Seethi's motion.

Mr. K. Mohammed Seethi.—Sir, I beg to move that the Cutchi Memons' Succession Bill be taken up and passed.

Mr. A. K. Kunhi Moideen.—I beg to second it.

Question proposed "*that the Cutchi Memon Succession Bill be taken up and passed*".

Motion put and agreed to.

Cochin Kuries Bill.

Mr. C. A. Kunjunni Raja.—In presenting the report of the Select Committee appointed to consider the Cochin Kuries Bill, I have to make a few observations. This Bill was introduced in the Meenam Session of 1104 and it was referred to a Select Committee which submitted its report early in 1105. It was a unanimous report and when it was presented to the Council, notice was given of a large number of amendments and the Bill was again re-committed to a Select Committee in Medam 1105, with the addition of two more members. All these amendments are tabulated in the present report as *Appendix A* and the Committee has considered all these amendments and the conclusions of the Committee and the reasons thereof are given in *Appendix A*, of the report and the Bill as amended is printed as *Appendix B* to the second report of the Committee. We are unanimous upon almost all the provisions except with regard to the conduct of lotteries. That is the only point upon which there is some difference of opinion. In the Bill which I introduced there was no provision at all with regard to lotteries started before the coming into force of the regulation. On the motion of the Member for Trippunittura in the Select Committee some additional provisions, which will affect these past transactions, were also introduced and it is that, which has now given rise to the difference of opinion. So far

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as the law on the subject is concerned, in Cochin these lotteries were considered to be legal under a decision of the Chief Court in Cr. R. P. 73 of 1098. Till the decision in 13 Cochin 298, in the year 1097, was pronounced by the Chief Court these lotteries were considered legal and there was no difficulty to conduct these transactions. That decision gives the reasons why the Chief Court changed the previous decision. It is a short judgment of Mr. Justice Varugis. There the typical kind of kuri now contemplated is referred to. I shall read a few lines from that judgement of Mr. Justice Varugis: "The question in this second appeal is whether the Kuri in which the plaintiff took two half tickets is a wagering transaction as held by the Courts below. The Kuri in question is of the type in which there is a large body of subscribers each paying a small sum, generally 1 rupee. Lots are drawn and the earlier winners get a lump sum with no further hazard. Those who are postponed to the end get little more than the aggregate of their subscriptions. The large interest which the successive pools are calculated to yield enables the stakeholder to pay those who have the luck to draw the earlier prizes a round sum in return for little or nothing. It has been held both in Madras and in Travancore (see 10 Law Weekly 155 and 18 T. L. R. 56) that such a transaction is a lottery. What is urged for the appellant is that, even in the ordinary Kuri, in which prizes go by lots, there is considerable disparity between the advantage derived by the earlier prizemen and the later and that therefore this element does not afford a distinction between a legal and an illegal Kuri. But there is a great difference in degree between the inequalities of the ordinary Kuri and those of the kind in question here. In the ordinary Kuri there is a certain amount of equipoise secured by the rule that those who do not get prizes shall share in the dividend which reduces the sum of each subscription, while those who draw their prize shall pay their subscriptions in full. The odds therefore are not so much in favour of the lucky man in the ordinary Kuri as in this. We think such Kuries, as the present, are inspired not so much by the laudable desire to bank one's savings as by the unhealthy relish for unearned gains. We think the suit was rightly dismissed by the lower courts and accordingly dismiss the second appeal with costs". With this judgment Mr. Justice Nambiar agreed. Then some doubt, whether this decision was correct, was entertained and the matter was referred to to a Full Bench in 17 Cochin, where there is an elaborate discussion. The leading judgment in 17 Cochin is written by Mr. Justice Krishna Menon with which Mr. Justice Varugis concurred. Mr. Justice Narayana Menon, took a different view and held that these transactions are legal. But the view of the majority of the Judges prevailed. This is the case of law about lottery transactions in Cochin. I do not propose to read the long discussion in 17 Cochin to the Council, for fear I may take too much time. You will find, in the course of the consideration of this Bill, a series of amendments upon this point is given notice of. All the other amendments are verbal. This matter is somewhat controversial. The Select

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Committee proposed in the first report to prohibit lotteries by enacting penal provisions in section 4 of the Bill and wanted to give subscribers the right to sue for the amounts due to them. With these proposals the Committee is unanimous. Two of the members of the Committee want clear provisions to be made, that starters may be allowed to conduct transactions already started. I shall reserve my remarks. With these words I present the report of the Select Committee.

Mr. C. V. Kuriyan.—Sir, I beg leave to present this petition signed by 700 members. These 700 members come from different castes and shades of opinion and they mostly represent institutions conducting kuries. The substance of the petition relates to sections 4 and 50 of the regulation, moved for the consideration of the Council. Section 4 says, that transactions which partake of the nature of kuries but are not strictly kuries should be made not only illegal but also void. It relates not only to kuries started before the coming into force of this Regulation but also started after the coming into force of this Regulation. Section 50 says, that such kuries already started, if conducted by the starter, should be wound up and the money paid should be refunded in the course of one year. These are the two provisions against which certain Members of this Council have presented their amendments and for the consideration of which a new committee was constituted. Even at present there are certain amendments before the Council and the petitioners request that, in view of the hardship that may arise by the inclusion of such provisions, the Council will reconsider the matter and that the kuries run on proper lines at present may be allowed to continue and legalised. I am entitled to speak only in brief on the petition. I may avail myself of my next turn when the Bill is taken into consideration for discussion.

President.—The Secretary will read this petition.

Secretary to the Council.—

"To

The Legislative Council,
Cochin State,
Ernakulam.

Through

Mr. C. V. Kuriyan, P. A., B. L. (Member for Anthikad).

We, foremen and subscribers to kuries in the State, beg to submit the following few lines for your sympathetic consideration:—

In 1104 Mr. C. A. Kunjunni Raja introduced in the Legislative Council, "The Cochin Kuries Bill" which, as then moved, was but a copy of the Chitty Regulation now in force in Travancore. The Council appointed a Select Committee which altered the bill to a great extent and added new provisions changing largely the character and scope of the original

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bill. The public had no inkling as to the Committee's intention to include such provisions and they were so included without having taken evidence as to the necessity and feasibility of such provisions. Naturally the bill as drafted by the Select Committee and especially its new provisions came in for much criticism. Numerous amendments were tabled by Members of the Council, directed particularly against the new provisions. In order to facilitate the consideration of the provisions of the bill, and with a view to give the Select Committee an opportunity to consider the bill in the light of the amendments, the bill was recommitted to the old Select Committee with two members newly added.

The new Committee has only made certain unsubstantial alterations in the provisions. They have not gone deeper into questions which affect vitally the interests of both the starter and subscriber.

We wish to bring to your notice that the kuries in the State, now characterized as partaking of the nature of lotteries, are an old institution which received judicial recognition by the decision of the Chief Court in CR. P. 73/1078. There are numerous such kuries working in the State at present and they are mainly intended to enable the poor to "pool their small savings" which, otherwise, would be frittered away. It is worthy of note that the above-mentioned kuries are generally conducted not so much by individuals as by Joint Stock Companies or partnership concerns. They allow the subscribers a certain percentage of interest for the periodical remittances of small investments.

According to the bill as submitted by the new Committee these kuries are not only declared void and illegal but also made penal. The said bill penalises all such transactions whether they have come into existence previous to or after the coming into force of this regulation. In addition to the criminal liability, the kuri starters are forced, contrary to the terms of the agreement entered into by the parties, to refund, immediately and in a lump, amounts collected from the subscribers from time to time.

These provisions will lead to great financial havoc. The foremen will find it difficult to find money all at once, as they must have invested excess collections in transactions or securities. It may be added that, unless the excess collections bring in substantial returns, such kuries will result in considerable loss for the starters. It may also entail serious loss to the subscribers if the foremen are by sudden pressure landed in financial embarrassment. It may also cause a general financial strain on the public.

It is again a striking feature of this legislation that while civil liability is definitely fixed and advanced on the foreman, the question of criminal liability is left vague and indefinite. There is likelihood of prosecutions being launched against him at a time when he is refunding the amount collected by him. This is highly inequitable.

With regard to the principles underlying the legislation we beg to submit that they are contrary to natural justice, equity and good conscience. It may be pointed out that it is a novel feature of this bill that retrospective effect is given to certain provisions which will come under substantive law; certain transactions, which are totally declared illegal and void under section 4, are made legal under section 50 for certain purposes. The circumstances do not justify the necessity of such a legislation. There is nothing absolutely inequitable in the agreement between the starter and subscriber; at the worst it may be considered only a matter of conflicting views in the Cochin Chief Court.

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No doubt the later decision of the Chief Court which seem to have overlooked the early decision of 1078 have laid down that kuries of this nature are lotteries. Mr. Justice P. Narayana Menon has dissented from this view. The view of the British Indian High Courts, Madras to particularise, is in favour of treating such transactions as legal. A kind reference is requested to the dissenting minute of Messrs. C. J. Mathew and C. V. Kurian in the report submitted by the Cochin Kuries Bill Select Committee on the 11th Kanni 1106. Asthere is perfect good faith in the transaction it is submitted that it would be quite in the fitness of things if the whole transactions were regarded as legal and binding, either way. But the present bill, while denying walidity to the agreement, forces the refund of the amount collected under the agreement. This method of partial legalisation by legislation is unparalleled in the annals of statutory enactments and is contrary to all canons of jurisprudence.

We pray, therefore, in the interest of kuri starters and subscribers and the public in general that, transaction now styled as partaking of the nature of lotteries may be wholly and not partially, declared legal and valid, and that the bill may be so amended as to avoid the great financial embarrassment which, as it stands at present, it is certain to bring on a very large section of His Highness' subjects".

Mr. C. J. Mathew.—Before wasting any more time on this subject I may say that we have come to a certain understanding.

President.—No discussion is allowed on this subject.

Mr. C. A. Kunjunni Raja.—I move that the Bill be taken into consideration.

Mr. T. A. Ramachandra Ayyar.—I second it.

Motion put and agreed to.

President.—There are a large number of amendments to various sections of the Bill. I shall take section after section in which amendments have to be moved.

Mr. C. J. Mathew.—I may be permitted to say that we have agreed to withdraw all these amendments, and accept the one standing in the name of the Member for Nellayi. In that case all the amendments need not be moved. If you will allow that course, we can save time.

President.—The amendments are in the name of Mr. C. A. Kunjunni Raja. I am sorry you cannot speak.

Motion No. 1.

Mr. C. A. Kunjunni Raja.—I move the amendment. In section 2—after '49' insert 'and 50 (2), (3) and (4)'.

Mr. V. V. Anantapadmanabha Ayyar.—I second it.

Mr. K. P. Kannan Nayar.—Will the mover kindly explain the scope of the amendment?

Mr. C. A. Kunjunni Raja.—In section 49 you will find certain sections are mentioned which are to have retrospective effect. To make the language clear in section 2 I have added these sections also. Section 2 says "Nothing contained in this regulation except to the extent specified in seetiod 49" etc. That will

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not do, because sections 50 (2), (3) and (4) are of retrospective effect. It is only to make the language correct the amendment is proposed—after 49 to add and 50 (2), (3) and (4). Then the section as amended will read thus: "(2) nothing contained in this regulation except to the extent specified in sections 49 and 50 (2), (3) and (4) below shall apply to a kuri of which the first drawing has been conducted before the commencement of this Regulation". That is the scope of the amendment.

Amendment put and agreed to.

Question put.—*That the section as amended, stand part of the Bill.*

Question put and carried.

Motion No. 2.

Mr. C. A. Kunjunni Raja.—In section 3—clause (6) after "between" insert "the." It is only an improvement of the language.

Mr. C. V. Kuriyan.—I second it.

Motion put and carried.

Question put.—*That the clause as amended, stand part of the Bill.*

"Prize amount" means the kuri amount, less the discount; it includes in the case of the fraction of a ticket the difference between the proportionate Kuri amount and the discount on the particular fraction of the ticket."

Motion put and carried.

Motion No. 3.

Mr. C. A. Kunjunni Raja.—In section 4 after 'starts' insert 'such a transaction'. 'After transaction' insert 'started after the coming into force of this Regulation'. The section as amended will read thus:—"Transactions partaking of the nature of a kuri but not falling within the definition in sub-section (1) of section 3 are void and any person who starts such a transaction or conducts such a transaction started after the coming into force of this Regulation without the previous sanction of the Government shall be liable to a fine not exceeding five hundred rupees."

Mr. C. V. Kuriyan.—I second the amendment. In seconding this, the object may be further elucidated. As the section stands, the section penalises the kuries which are already started and conducted at present. Now the mere conduct of the kuries, already started before the coming into force of this Regulation, is penalised. It is just to avoid that penalty which attaches itself to the conduct of the kuri already started, that this amendment is proposed. The object is therefore that, so far as the kuries started before the coming into force of this Regulation, they should not be penalised.

Amendment put and agreed to.

Question put:—*That the section as amended, stand part of the Bill.*

Question put and agreed to.

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Motion No.4.

Mr. E. Ikkanda Warriar.—Sir, you will find that various amendments are tabled upon this section. The public of Cochin to a great extent have been greatly agitated over this clause. The proposers of the amendments informally met and discussed all the amendments and have agreed to move only the amendments tabled by Mr. T. A. Ramachandra Ayyar, namely, amendments Nos. 7, 29 and 30. In view of that understanding I withdraw the amendments that I have tabled and I do not propose to move any one of them.

Hence the following amendment standing in his name was considered withdrawn.—

Mr. E. IKKANDA WARIAR.

4 *Section 4.*—After the word 'starts' add 'such a transaction' and add between the words 'transaction' and 'without' the words 'started after the coming into force of this Regulation'.

Add as a proviso to the section 'provided, however, such transactions started before the coming into force of this Regulation or started for charitable or religious purposes, or for the promotion of Science or Literature or the Fine Arts, or for the diffusion of useful knowledge, and such transactions in which a non-defaulting subscriber may be entitled to get at least the actual amount subscribed by him, shall be deemed to be legal'.

Motion No. 5.

Mr. K. J. Antony.—I also don't move.

Hence the following amendment was considered withdrawn.—

Mr. K. J. ANTONY.

5. *Section 4*—after the word 'starts' add 'such a transaction' and add between the words 'transaction' and 'without' the words 'started after the coming into force of this Regulation' and add as a proviso to the Section 'provided, however, such transactions started before the coming into force of this Regulation or started for charitable or religious purposes or for the promotion of Science or Literature or the Fine Arts or for the diffusion of useful knowledge and such transactions in which a non-defaulting subscriber may be entitled to get at least the actual amount subscribed by him shall be deemed to be legal.'

Motion No. 6.

Mr. C. V. Kuriyan.—I also do not move.

Hence the following amendment was considerd withdrawn.—

Mr. C. V. KURIYAN.

6. *Section 4.*—After the word 'starts' add 'such a transaction' and add between the words 'transaction' and 'without' the words 'started after the coming into force of this Regulation.'

Add also as a proviso to the section 'provided, however, such transactions started before the coming into force of this Regulation and in which a non-defaulting subscriber may be entitled to get at least the actual amount subscribed by him shall be deemed to be legal.'

Motion No. 7.

President.—Amendment No. 7 by Mr. T. A. Ramachandra Ayyar.

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Mr. T. A. Ramachandra Ayyar.—My amendment runs thus: "Insert at the end of section 4 the following :—'Provided however such transactions which have been started but not terminated before the coming into force of this Regulation shall be deemed to be legal'". The object of the amendment is to make the existing kuries legal. The main reasons for the amendment is given in the dissenting minute of some of the Members and there will be very great hardship caused to those starters of kuries especially by institutions run for charitable purposes such as the Vivekodayam School and such others. If they are called upon to terminate such kuries all atonce, before the period and to pay ina moment's notice the whole amount subscribed by them, this would certainly end in utter ruin and collapse of the deserving institutions. So, I move the amendment.

Mr. C. J. Mathew.—I second it.

Mr. V. V. Anantapadmanabha Ayyar.—I do not think this amendment is necessary at all. The third amendment is—after 'transaction' insert 'started after the coming into force of this Regulation'. That has been passed by this House. So the illegality which is referred to in section 4 affects only transactions which are started and conducted after this Regluation. So, by this Regulation, it is not attempted to make any transaction which has been started before the coming into force of this Regulation void or illegal. So, I do not think such an amendment is necessary at all. But it might be said that in the decisions of our courts, especially in the Full Bench decision in 17 Cochin, it has been laid down that such transactions are declared to be illegal. My humble submission is that we are not here to abrogate law or to abrogate that decision which has been passed by the Chief Court. The scope of this Bill itself is very much confined by the definition of the term 'Kuri' in the Regulation. The kuri has been defined to be, "a transaction by which one or more persons, hereinafter called the foreman or foremen enter into an agreement with a number of persons that everyone of the contracting parties shall subscribe a certain amount of money or quantity of grain by periodical instalments for a certain definite period and that each in his turn, as determined by lot or by auction or in such manner as may be provided for in the vaimpu, shall be entitled to the 'prize amount'".

Every other transaction will not come under the term kuri and we are not here going to legislate for any transaction which does not come under the term kuri. If, under the existing law, any transaction is illegal and has been declared to have been illegal and void, my submission is, we are not in a position now to make those past transactions legal. For a large number of years all these transactions have been held to be illegal and we find from XVII Cochin and even earlier

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decisions that such transactions are illegal. My submission is that we cannot pass such legislation and it is beyond our province to do so. This amendment has therefore to be opposed.

Mr. Thomas Manjuran.—I think my Hon'ble friend has misconceived the attempt of this House so far as this matter is concerned. This House, at any rate a good portion of the Members of this House, are trying to make it out that the decision in XVII Cochin is wrong and it should not be law. My Hon'ble friend seems to assume that we were proceeding on the basis that that decision is correct. It is not like that. My difficulty is entirely different. My doubt is whether that amendment is necessary at all in view of the amendment already voted for. If the existence of voidness does not attach to any of the kuries started before the Regulation, *ipso facto*, 17 Cochin lays down that this is not enforceable and as such the first provision was introduced. The amendment was introduced with that first amendment in view. I cannot understand the Hon'ble Member objecting to this amendment on that account. Let us not be labouring under a mistake. This House is requested to pass a vote to the effect that 17 Cochin which declared that all transactions connected with these kuries are unenforceable, this House is invited to declare that that decision is not correct and that everyone who has invested money in such kuries should have a chance of collecting those amounts. I understand that that is the effect of all the amendments that are arranged to stand and the law is intended to be put into that form. As a a matter of fact, 17 Cochin was decided at a time when the state of law in the Madras High Courts was more or less nebulous. There were at least four decisions conflicting, two on one side and two on the other side. The Madras High Court found it a troublesome affair, and the High Court finally concluded by the decision reported in 50 Madras, a Full Bench decision. It is the result of that decision, at any rate a part of the result of that decision, that we want to bring into effect in this State. I say a part, because no attempt is now made to legalise all these kuries. We do not want to have any more of these kuries in the State. But why should the existing kuries be interfered with? But I have got a difficulty, whether this amendment is necessary to get the effect which we concede, whether it is not really redundant since we have already got this thing here. "Transactions partaking of the nature of a kuri but not falling within the definition in sub-section (1) of section 3 are void and any person who starts such a transaction or conducts such a transaction started after the coming into force of this Regulation" etc. So, if transactions which are started before the coming into force of this Regulation are not

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void and illegal, the necessity for this further amendment is not quite clear to my mind. I am not combating the position. I should like to understand. It is not quite clear why the amendment No. 7 is necessary. I would in fact invite the Hon'ble Member to kindly read the section with that amendment.

Mr. K. P. Kannan Nayar.—I think there is some confusion. The scope of that section as enunciated by the Hon'ble Member for Trippunittura as also by the Hon'ble Member for Cheruvirutti, I think that there is some confusion made by them. It is not correct to say that we are here to say that the decision reported by the Full Bench of the Chief Court in 17 Cochin is correct or incorrect. So far as the decision of this Chief Court is concerned, thepresent transactionsare likely to be characterised as illegal transactions. (*Hear, hear*). Now the scope of this amendment is restricted so far as the transactions which are now going on are concerned. They should be considered to be legal. To that extent the effect of the decision of the Chief Court will have to be abrogated by the legislature. So far as the future transactions are concerned, that decision may be correct, because here it is declared to be void and penal. So that the scope of the amendment is simply to make the existing transactions, which are going on now and which kuries having not come to a normal termination, to be considered to be not void or illegal. It is only to give relief to them. So far as the section is concerned, "transactions partaking of the nature of a kuri but not falling within the definition of sub-section (1) of section (3) are void", though, no doubt, nothing is said about prospective or retrospective effect. It can have the effect of declaring transactions void only when the Regulation itself comes into force. With reference to the penal clause also, what is the scope of the amendment? He wants to clear a doubt. Transactions which are running on now and which are going on should be penalised. It is only with reference to transactions which will be conducted after the coming into force of this Regulation. It is only such transactions that should be declared to be penal. The amendment is to add a proviso. It does not say anything about the penal effect of it or the voidness of it. What it says is with reference to the existing transactions which transactions may be excluded, and which transactions may not be covered by the definition. They should be taken away for the time being from the operation of the decision of the Chief Court. I believe that is how we understand the scope of the amendment and if that is so, I do not think there is any redundancy or any such thing so far as this is concerned.

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Mr. C. V. Kuriyan.—I support the amendment. In section (4), it may be divided into two parts. Transactions partaking of the nature of a kuri but not falling within the definition of sub-section (1) of section (3) are void. Any person who starts such a transaction or conducts such a transaction after the coming into force of this Regulation without the previous sanction of the Government shall be liable to a fine not exceeding five hundred rupees. Now my Hon'ble friend for Cheruvirutti was saying that the amendment proposed is superfluous. I submit that there is a fallacy in the argument advanced. As the section stands, there is voidness attached to the transactions by the first part and there is illegality attached by the second part of the section. In the same section there is a voidness of the transaction and there is the illegality. Supposing this Regulation was not in force. Now according to the Chief Court decision such transactions are really considered to be illegal and not only that, there is voidness attached to this section. It is to remove that illegality and voidness attached by the Chief Court the said amendment is proposed. It will be a matter of conflicting agreement whether transactions now existing should be conducted as legal or not. It is just to remove that, a separate provision is introduced here. Besides that my Hon'ble friend, the Member for Vellarappilli also urged the same point in the face of the Chief Court decision. There is a *bona fide* doubt entertained as to the existing kuries, whether they should be considered illegal and penalised. It is to avoid that difficulty that this amendment is proposed. The section as amended will be "transactions partaking of the nature of a kuri but not falling within the definition in sub-section (1) of section(3) are void and any person who starts or conducts such a transaction without the previous sanction of the Government shall be liable to a fine not exceeding Rs. 500, provided however such transactions which have been started but not terminated before the coming into force of this Regulation shall be deemed to be legal." Now my Hon'ble friend, the Member for Cheruvirutti, was urging that such transactions are included in the definition of a kuri in sub-section (3). Now here in this case, there is an express provision introduced relating to kuri transactions partaking the nature of lotteries. Now there are two transactions contemplated by section (3) which defines the word kuri. Sections 4 and 50 go further and say there is a kind of transaction which is almost on similar lines with the kuries but do not take the full characteristics of kuries. There are two elements of incidence in the transaction prosposed here. There is the ordinary kuri and also there is a kuri which partakes a kuri and lottery. They are sections 4 and 50 introduced in this Bill It is absolutely necessary that an amending section to such transactions should be introduced. Now it is with this purpose that this amendment is introduced.

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Mr. C. A. Kunjunni Raja.—So far as these lotteries are concerned there can only be 3 classes of lotteries. Firstly lotteries which have presently terminated their period, secondly those running lotteries and thirdly lotteries to be started in the future. So far as future lotteries are concerned, it is agreed that they shall be made illegal and that the starting or the conducting of such shall be made a penal offence. So far as lotteries which have terminated their course are concerned, provision is made in section 50 (2), (3) as well as in (4) that in such transactions subscribers as well as starters can sue for the amounts due to them. Then we have to see what is to be done with running lotteries. If ths section is allowed to stand without that proviso a doubt, whether running lotteries may be conducted in future, may arise when section 4 is read with section 2. Under section 4, lotteries cannot be conducted in future. That section makes it penal to start *or to conduct.* In that case all running lotteries cannot be conducted in the face of section 4 unless there is a proviso. But section 2 does not make section 4 retrospective in effect. It is only to make clear running lotteries may be conducted that this proviso is inserted there. With regard to the observation that it is not our function to go behind the decision of the Chief Court, I beg to differ. It is the function of the Legislature to interfere to set right a decision if it does not agree with the general feeling in the country. The Member for Cheruthuruthi was a party to the first report of the Committee and there was no dissenting minute. That report with regard to this matter is very short and I fear he has forgotten those paragraphs. This is what the first report says about lotteries:—"Many kuries of the type adjudicated to be a lottery in 13 Cochin 298 on 24th Karkadagam 1097 were and are started in different parts of the State and subscribers have been put to considerable loss on account of that decision of the Chief Court. In Cr. R. P. No. 73 of 1078 the Chief Court has decided that such kuries do not amount to a lottery and that decision of the Chief Court has been allowed to stand for nearly 20 years and many kuries have been started under the security of that decision. That decision was not brought to the notice of the Chief Court when 13 Cochin 298 was decided. On a reference to the full bench whether the latter decision requires re-consideration—in 17 Cochin 297—the full bench (Varugis, C. J. and Krishna Menon, J.) by a majority decided that the decision in 13 Cochin was correct. The arguments for either view are elaborately discussed by Krishna Menon, J. at pages 278—80 and by the dissenting Judge Narayana Menon, J. at pages 280—85 of 17 Cochin and we deem it unnecessary to discuss the question here. *We propose to prohibit lotteries by enacting penal provisions in Section 4 of the Bill.* Since we do not think that the starters of kuries under the security of the earlier decision of the Chief Court need be allowed to take advantage of the fact that such kuries have been declared illegal later by the Chief Court, since such a course will enable the perpetrators of the fraud to profit by their misdemeanour, we have

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inserted Section 51 to the amended bill to enable subscribers to sue within one year from the date of the coming into force of this Regulation for the amounts due to them." A paragraph is extracted from the evidence given at the Trichur sitting of the Committee. There is a strong request by the public for such a provision to be inserted in the Bill. "It is said lotteries are too rampant in Cochin to be merely left out of consideration as being outside the path of law. It may be considered whether such transactions as have already come into existence may be legalised, such transactions in future being declared illegal and penalised. Great hardship is caused by such lotteries. The Criminal Courts do not interfere. Civil Courts do not give any relief. Unscrupulous Kuri starters sometimes dupe subscribers who cannot sue for the amount in a court of law." The proviso could have been inserted as an explanation.

Mr. V. V. Anantapadmanabha Ayyar.—May I offer a word of personal explanation? I do remember the whole report of the Select Committee read out by my Hon'ble friend and the present amendment is not called for by that report.

Mr. A. B. Salem.—I rise to support the amendment. And I fully agree with the Member for Vellarappalli in all that he has said. The language does not seem to be happy. It may be provided, if my Hon'ble friend the mover of the amendment will be agreeable to it, say, "that Kuries started before this Regulation comes into force shall be exempt from the penal provisions ". We only want to make them legal. I am only suggesting that. I am not standing against your amendment. The language there is, that all these kuries shall be made legal. I say that they are illegal transactions which for a time, to work them out, is made legal. It will be creating great hardship to the subscribers and those who are conducting the kuries. If that is not agreeable, I do not stand in the way. What I say is that the amendment must be there.

Mr. V. V. Anantapadmanabha Ayyar.—May I know the opinion of the Government Advocate in this matter?

President.—The Government Advocate will decide whether he is to speak or not.

Mr. K. Mohammed Seethi.—One word with regard to the unhappiness of the language used by the previous speaker in this House. I would suggest instead of a proviso being added, if an explanation is given, the incongruity between the section and the subsequent portion contained in the amendment will be removed.

President.—The motion before the House is,

Mr. Thomas Manjuran.—Sir, the mover wants to make a slight change.

Mr. T. A. Ramachandra Ayyar.—I have no objection to make the change by inserting 'explanation' in the place of the proviso.

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President.—It is a very late stage. I don't think it will be proper.

The motion before the House is that the amendment may be passed.

Motion put and agreed to.

Question put.—*That section 4, as amenaed, form part of the Bill.*

4. "*What transactions void and penalty for starting or conducting such*:—Transactions partaking of the nature of a kuri but not falling within the definition in sub-section (1) of section 3 are void and any person who starts such a transaction or conducts such a transaction started after the coming into force of this Regulation without the previous sanction of the Government shall be liable to a fine not exceeding Rs. 500, provided however such transactions which have been started but not terminated before the coming into force of this Regulation shall be deemed to be legal".

Question put and agreed to.

Motion No. 8.

Mr. C. A. Kunjunni Raja.—In section 6—clause (9) after '15' insert 'and 24.' Under section 24 the amount has to be deposited in a particular bank. The name of that bank is also to be included in the particulars in the vaimpu. That has been omitted by inadvertance. It is only to add that, this amendment is proposed.

Mr. C. V. Kuriyan.—I second it.

President.—The motion then is 'In section 6—clause (9) after '15' insert 'and 24'.

Motion put agreed to.

Question put:—*Section 6, clause 9 as amended, stand part of the Bill.*

" 6 (9) The bank or banks or other securities in which the prize amount shall under section 15 and 24 be invested".

Question put agreed to.

Motion No. 9.

Mr. C. A. Kunjunni Raja.—In section 7—after ' in filing the vaimpu' insert 'under this section'. 'After particulars' omit 'under this section' and insert there 'mentioned in section 6'.

The section as amended will read thus:—

7. *Registration of Vaimpu*:—Every vaimpu with its duplicate shall be filed by the foreman with the Registrar who shall register and return the vaimpu with an endorsement that it is registered.

On the registration of the vaimpu, the Registrar shall endorse on the duplicate a certificate that it is registered and retain it in his office.

Every such endorsement shall be conclusive evidence that it is duly registered under this Regulation.

" If a foreman makes default in filing the vaimpu under this section with the correct prescribed particulars mentioned in section 6 he shall be liable to a fine not exceeding Rs. 500".

As it now stands the proper particulars are mentioned

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in section 6 which are necessary to be mentioned in the vaimpu, That has been corrected. It is only verbal.

Mr. A. B. Salem.—I second it.

President.—The motion before the House is 'In section 7—after 'in filing the Vaimpu' insert 'under this section''. After 'particulars' omit 'under this section' and insert there 'mentioned in section 6'.

Motion put and carried.

Question put.—*That the section, as amended, stand part of the Bill.*

Question put and agreed to.

Motion No. 10.

Mr. C. A. Kunjunni Raja.—Here also the change is verbal for, the word '*the*' has been omitted. The amendment is, " In section 10—after "in accordance with" insert "the".

Mr. Thomas Manjuran.—I second it.

President.—The motion is that "In section 10—after " in accordance with " insert " the ".

Motion put and agreed to.

Question put.—*The section, as amended, stand part of the Bill.*

" 10. *Time and place of conducting kuri.*—Every drawing of prizes in a kuri shall be conducted at the time and place mentioned in the vaimpu and in accordance with the provisions contained therein except that the foreman is free to change the place within the same village or town provided notice of the change of place is duly filed with the Registrar and intimated to the subscribers ".

Question put and agreed to.

Motions Nos. 11—22.

Mr. E. Ikkanda Warriar.—I do not move. We do not move any of the amendments except those of the Hon'ble Members for Jenmies and Nellayi.

The following amendments not being moved were considered withdrawn:

Mr. E. Ikkanda Warriar.

11. *Section 19* —After the words 'pay the subscription' add 'provided he has made payment for the previous instalment'.

Mr. K. J. Antony.

12. *Section 19.*—After the words 'pay the subscription' add 'provided he has made payment for the previous instalment'.

Mr. C. V. Kuriyan.

13. *Section 19.*—After the words 'pay the subscription' add 'provided he has made payment for the previous instalment'.

Mr. C. J. Mathew.

14. *Section 19.*—After the words 'pay the subscription' add 'provided he has made payment for the previous instalment'.

Mr. E. Ikkanda Warriar.

15. *Section 30.*—In clause (5) delete the word 'or' between the words 'thereof' and 'invest' and substitute 'and on the failure of the foreman to' and add the word 'on' between the words 'or' and the 'withdrawal'.

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Mr. K. J. Antony.

16. *Section 30.*—In clause (5) delete the words 'on the failure of the foreman' and substitute 'when a foreman contrary to section 15, clause (1) and without good faith fails' and in the same clause delete the word 'or' between the words 'thereof' and 'invest' and substitute 'and' and in the same clause delete the words 'the withdrawal' and substitute 'when he withdraws without good faith'. In the same clause delete '15 and 24' and substitute '15 clause (2) and 24 clause (2)'.

Mr. C. V. Kuriyan.

17. *Section 30.*—In clause 5, delete the words 'on the failure of the foreman' and substitute 'when a foreman contrary to section 15, clause (1) and without good faith fails'. In the same clause delete the word 'or' between the words 'thereof' and 'invest' and substitute 'and when a foreman cantrary to section 15 clause (2) and section 24, clause (2) and without good faith fails to'. In the same clause delete the word 'same' between the words 'the' and 'before' and substitute 'amount'. In the same clause delete the words 'the withdrawal' and substitute 'when he withdraws'. Delete also the words 'contrary to sections 15 and 24' at the end of the clause.

Mr. C. J. Mathew.

18. *Section 30.*—In clause (5) delete the word 'or' between the words 'thereof' and 'invest' and substitute 'and'.

19. *Section 39.*—Between the words 'fees' and 'as' add 'not exceeding rupees ten for the registration of a Vaimpu and rupee one for the filing'.

Mr. C. V. Kuriyan.

20. *Section 39.*—Between the words 'fees' and 'as' add 'not exceeding rupees ten for the registration of a Vaimpu and rupee one for any other filing'.

Mr. K. J. Antony.

21. *Section 39.*—Between the words 'fees' and 'as' add 'not exceeding rupees ten for the registration of a Vaimpu and rupee one for any filing'.

Mr. E. Ikkanda Warriar.

22. *Section 39.*—Between the words 'fees' and 'as' add 'not exceeding rupees ten for the registration of a Vaimpu and rupee one for any filing'.

Motion No. 23.

Mr. C. A. Kunjunni Raja.—The amendment proposed is, "In section 40 (1) (a) omit '8' and insert there '7 or registration of statement under section 8".

In the first Bill section 8 related to the registration of the vaimpu and there was no provision with regard to the registration of the statement. That was added subsequently by the Committee. There was no suitable amendment to insert these words in the reference to the Committee for the second time. It is only in consonance with the insertion of the new sections 7 and 8 that this has been inserted.

Mr. C. V. Kuriyan.—I second it.

President. — The motion before the House is that " In section 40 (1) (a) omit '8' and insert there '7 or registration of statement under section 8'.

Motion put and agreed to.

Question put.—*The section as amended, shall stand part of the Bill.*

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40. *Levy of fees.*—(1) There shall be paid to the Registrar such fees as the Government may from time to time prescribe for

(a) the registration of a vaimpu under section 7 or registration of statement under section 8,

(b) filing with the Registrar of copies of documents as required under sections 20 (2), 28 (2) and 31,

(c) the inspection of a document under section 39,

(d) any certificate, copy or extract under section 39, and

(e) such other purposes as appear necessary to effect the purposes of this Regulation except under section 12 (1).

(2) A table of fees payable under sub-section (1) shall be published in the Government Gazette.

Question put and agreed to.

Motion No. 24.

Mr. C. A. Kunjunni Raja.—"In section 49 after '11' insert '12'. After 24 Insert '(1)".

It is only the penalty for the violation of section 11 that is provided in section 12. Section 11 is given retrospective effect. Section 12 also has to be given retrospective effect in consequence. The amendment is only for that. Then section 24 (1) alone can be given retrospective effect. 24 (2) cannot be retrospective because there will be no provision mentioned in the case of kuries which have been already started in which banks they should deposit the amount. 24 (2) cannot be given retrospective effect. To make it clear this change is made.

Mr. C. V. Kuriyan.—I second it.

President.— The motion before the House is that " In section 49 after '11' insert '12'. After '24' insert '(1)' ".

Motion put and agreed to.

Question put.—*The section, as amended, stand part of the Bill.*

49. *Retrospective Applieation.*

"Sections 11, 12, 19, 24 (1), 26, 27, 33 and 45 of this Regulation, in so far as they are applicable, shall apply to Kuries started in Cochin before the coming into force of this Regulation or to any claim or liability arising out of such Kuries".

Question put and agreed to.

Motion Nos. 25—28.

As the following amendments were not moved they were considered withdrawn:—

Mr. E. Ikkanda Warriar.

25. *Section 49.*—Delete '19, 24, 26'and substitute '24 clause (1).'

Mr. K. J. Antony.

26. *Section 49.*—Delete '19, 24, 26' and substitute '24 clause (1).'

Mr. C. V. Kuriyan.

27. *Seection 49.*—Delete '24' and '26' and substitute '24 clause (1).'

Mr. C. J. Mathew.

28. *Seection 49.*—Delete '24' and substitute '24 clause (1).'

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Motion No. 29.

Mr. T. A. Ramachandra Ayyar.—In section 50 (1) after the words "Section 4' insert 'and started after the coming into force of this Regulation".

This change is made only to make it clear that this section will affect only future kuries.

Mr. A. B. Salem.—I second it.

President.—The motion before the House is that in section 50 (1) after the words " Section 4 " insert ' and started after the coming into force of this Regulation " .

Motion put and agreed to.

Question put:—*The clause as amended, stand part of the Bill.*

" *Right of subscriber to refund of subscription in void and illegal Kuries*: 50 (1).—Notwithstanding anything contained in the Indian Contract Act as made applicable to Cochin by His Highness the Raja's Proclamation dated 14th August 1908 a subscriber to any transaction mentioned in section 4 and started after the coming into force of this Regulation shall be entitled to sue for and recover the amounts actually subscribed by him with interest thereon at 6 per cent per annum"

Question put and agreed to.

Motion No. 30.

Mr. T. A. Ramachandra Ayyar.— The next amendment is "In section 50 (2) omit the words 'been started' and insert there the word 'terminated.' "

This also is to make it clear that it will affect only kuries to be started in future.

Mr. A. B. Salem.—I second it.

President.—The motion before the House is that in section 50 (2) omit the words 'been started' and insert there the word 'terminated.'

Motion put and agreed to.

Question put:—*That the clause, as amended, stand part of the Bill.*

" *Certain Kuries to be validated and limitation extended*: 50 (2).—Notwithstanding anything contained in this Regulation or in the Cochin Limitation Regulation or in the decisions of courts in Cochin, a suit by a subscriber on account of any transaction partaking of the nature of kuries, which has terminated before the coming into force of this Regulation and has been or may be declared illegal as amounting to lotteries by courts, may be instituted within one year from the date of passing of this Regulation or within the period of limitation applicable to such suits, whichever period expires last, and no such suit so filed or pending at the date of passing of this Regulation shall be dismissed on the ground that the period of limitation applicable has expired or that claim is illegal as amounting to a lottery within the meaning of section 30 of the Indian Contract Act as made applicable to Cochin by His Highness the Raja's Proclamation, dated 14th August 1908".

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Question put and agreed to.

Motions Nos. 31—34.

The following amendments were not moved and hence they were considered withdrawn:—

Mr. E. Ikkanda Warriar.

31. *Section 50.*—In clause (1) between the words 'Section 4' and 'shall' add 'and started after the coming into force of this Regulation.' Between the words 'him' and 'with' add 'in accordance with the agreement between the starter and the subscriber or'.

In clause (2), between the word 'subscriber' and 'on account of' add 'or a foreman.' Delete the words 'been started' between the words 'which has' and 'before' and substitute 'terminated.'

Mr. K. J. Antony.

32. *Section 50.*—In clause (1) between the words 'Section 4' and 'shall' add 'and started after the coming into force of this Regulation.' Between the words 'him' and 'with' add 'in accordance with the agreement between the starter and the subscriber or.'

In clause (2) between the words 'subscriber' and 'on account of' add 'or a foreman'. Delete the words 'been started' between the words 'which has' and 'before' and substitute 'terminated.'

Mr. C. V. Kuriyan.

33. *Section 50.*—In clause (1) between the words 'section 4' and 'shall' add 'and started after the coming into force of this Regulation.'

In clause 2 between the words 'subscriber' and 'on account of' add 'or a starter.' In the same clause delete the words 'been started' between the words 'which has' and 'before' and substitute 'terminated.'

Mr. C. J. Mathew.

34. *Section 50, clause (2).*—Add after the words 'by a subscriber' the words 'or a starter.' In the same clause delete the words 'been started' between the words 'which has' and 'before' and substitute 'terminated.'

President.—All the amendments are over. The remaining clauses of the Bill may be read and passed.

Preamble.

Whereas it is expedient to define and amend the Law relating to Kuries, it is hereby enacted as follows:—

PART I.

Preliminary.

Short title, commencement and extent.

1. (1) This Regulation may be called "The Cochin Kuries Regulation of 110 " and shall come into force at once.

(2) It extends to the whole of Cochin.

(2) Savings:—(*Vide consideration of the amedments page 187.*)

Definitions.

3. In this Regulation, unless there be something repugnant in the subject or context:—

(1) "Kuri" means a transaction by which one or more persons hereinafter called the foreman or foremen enter into an agreement with a number of persons that every one of the contracting parties shall subscribe a certain amount of money or quantity of grain by periodical instalments for a certain definite

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period, and that each in his turn as determined by lot or by auction or in such manner as may be provided for in the vaimpu shall be entitled to the 'prize amount'.

Explanation 1.—A transaction in which the right to a prize is wholly dependant upon the drawing of lots and whereby some alone but not all of the subscribers get the prize without any liability to pay future subscriptions is not a kuri within the meaning of the definition.

Explanation II.—A transaction in which all the subscribers get prizes by turns with a liability to pay future subscriptions is not a kuri, if the prize-winner is not entitled to get the prize amount as defined in clause (6) of this section.

Illustration.—A starts a kuri with 200 subscribers, each of whom pays a monthly instalment of Rs. 10 for 120 instalments. One prize is drawn every month up to the 40th instalment and thereafter two prizes every month until all the subscribers get their prizes. Out of the total monthly collection of Rs.2,000, Rs. 200 is set apart for discount and the prize-winner is paid Rs. 1,000. The foreman is allowed the use of the balance of Rs. 800 until the same is required for payment to the prize-winners. The transaction is not a kuri.

(2) "Vaimpu" is a document containing the terms of agreement between the foreman and the subscribers relating to the Kuri.

(3) "Kuri amount" means the sum total of the contributions payable by the subscribers for any instalment without any deduction for discount as defined in clause (4).

(4) "Discount" means the amount of money or quantity of grain which a prize-winner has, under the terms of the vaimpu, to forego for the payment of veethapalisa, foreman's commission and other expenses.

(5) "Ticket" means the share of a subscriber in a kuri which entitles the holder thereof to the kuri amount at any one instalment with or without any deduction by way of discount.

(6) (*Vide consideration of amendments Page. 187.*

(7) "Foreman" is the person who, under the vaimpu, is responsible for the conduct of the kuri.

(8) "Subscriber" includes a person who holds a fraction of a ticket, and also a transferee by assignment in writing or by operation of law.

(9) "Veethapalisa" is the share of a subscriber in the discount available under the vaimpu for rateable distribution among the subscribers at each instalment of the kuri.

(10) "Drawing" includes the mode of ascertaining the prize-winner at any instalment of the kuri by lot or by auction or in any other manner as may be provided for in the vaimpu.

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PART II.

Of the Constitution and Registration.

(4) What transactions void and penalty for starting or constructing such:—(*Vide consideration of the amendments.*)

Prohibition of Kuri not registered and penalty.

5. Every kuri shall be registered in accordance with the provisions of this Regulation and if not so registered, it shall be void and the foreman shall be liable to a fine not exceeding five hundred rupees.

Particulars of vaimpu.

6. In every kuri there shall be a vaimpu in duplicate and such vaimpu shall contain—

(1) the full name and address of the foreman,

(2) the number of instalments and the amount payable for each ticket at every instalment,

(3) the date on which the kuri is to begin and the date on which it is to terminate,

(4) the mode of ascertaining the prize-winner at the successive instalments,

(5) the amount of discount which a prize-winner at any instalment has to forego,

(6) the mode and proportion in which the discount is distributed by way of veethapalisa, foreman's commission and other allowances, if any,

(7) the time and place at which the kuri is to be conducted

(8) the instalment at which the foreman is to get the prize

(9) (*Vide consideration of the amendments.*)

(10) the consequence, which a non-prized or prized subscriber or the foreman will be liable to in case of any violation of the provisions of the vaimpu, and

(11) the nature and particulars of the security, if any, offered by the foreman under section 13 and the estimate value thereof.

(7) (*Vide consideration of the amendments.*)

Registration of statement.

8. After the vaimpu is registered and before the first ticket is drawn, the foreman shall file before the Registrar a statement in duplicate containing the full name and address of every subscriber and the number of tickets and fraction thereof held by each subscriber.

The Registrar shall then endorse on the duplicate a certificate that the kuri is registered.

Every such endorsement shall be conclusive evidence that the kuri is duly registered under this Regulation.

If a foreman makes default in filing the statement with the correct prescribed particulars, he shall be liable to a fine not exceeding five hundred rupees.

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9. (1) Every subscriber shall on demand be supplied by the foreman with a true copy of the vaimpu and the statement referred to in section 8.

Copies of vaimpu to be given to subscribers.

(2) If a foreman makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding fifty rupees.

10. (*Vide consideration of the Amendment*).

11. A minute of the proceedings of every drawing shall be kept in a book and shall be signed by the foreman or his agent authorised in writing and by at least two subscribers. It shall also be signed by the prize-winner or his agent, if present.

Minute of proceedings.

Such minute shall state clearly:—

(1) the date of the drawing and the hour when the proceedings began and ended,

(2) the place where the proceedings took place,

(3) the number of the particular instalment of the kuri of which the proceedings are recorded,

(4) the names of the subscribers present,

(5) the person or persons whose ticket is drawn, and

(6) the amount of discount.

12. (1) A true copy of such minute shall be filed by the foreman with the Registrar within 21 days from the date of such instalment.

Copy of minute to be filed with the Registrar.

(2) If the foreman makes default in complying with the requirements of this section or section 11, he shall be liable to a fine not exceeding one hundred rupees.

PART III.

Of the Foreman.

13. (1) Unless otherwise provided for in the vaimpu and the provision is specially assented to in writing by or on behalf of all the subscribers, every foreman shall, before the first drawing of the kuri, execute a bond in favour of or in trust for the other subscribers charging by way of security, property sufficient for the realisation of twice the kuri amount; provided, however, that if the property charged by way of security be movable property, the same shall be deposited in such manner as may be provided for in the vaimpu or with such authority as the Government may appoint in this behalf.

Security to be given by Foreman

Provided also, however, that any portion of the security may be released during the continuance of the kuri by or with the written consent of all the non-prized and unpaid prized subscribers.

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(2) If any foreman contravenes the provisions of sub-section (1) he shall be liable to a fine not exceeding five hundred rupees and the kuri shall be voidable at the instance of any subscriber.

The rights of a Foreman.

14. The foreman shall be entitled

(1) (a) to botain his prize at the insta lment specified in the vaimpu without any deduction for discount, unless otherwise provided for in the vaimpu, and

(b) to such commission or remuneration as may be fixed in the vaimpu for the conduct of the kuri;

(2) to receive and realise all contributions from the subscribers and to distribute the veethapalisa among them;

(3) to substitute subscribers in the place of defaulters; and

(4) to do all other acts that may be necessary for the due and proper conduct of the kuri.

The duties of a Foreman.

15. (1) The foreman, shall, on the prized-subscriber furnishing sufficient security for the payment of future subscriptions, be bound to pay every prized-subscriber the 'prize amount' on the due date and shall be entitled to get an acknowledgment from him evidencing such payment:

Provided that the foreman shall, on demand by the prized subscriber, pay him on the due date the difference between the prize amount and the amount of future subscriptions without any security whatsoever.

(2) If owing to the default of the prize-winner the prize amount due in respect of any drawing remains unpaid on the due date, the foreman shall invest the same in such bank or banks or other securities as may, from time to time, be approved by the Government or as may have been mentioned in the vaimpu, and intimate the fact of such investment to the prize-winner.

Any investment made under this section may be withdrawn for payment to the prized-subscriber subject to the provisions of sub-section (1).

(3) Payment of the prize amount under sub-section (1) or investment under sub-section (2) shall be announced at the next instalment, and the same shall be entered in the minute of proceedings of that instalment.

Books to be kept by the Foreman.

16. (1) The foreman shall keep

(i) a register containing

(a) the names and full address of the subscribers,

(b) the dates on which the subscribers or their authorised agents joined the kuri, and

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(c) in case of assignment by a subscriber the name and full address of the assignee with the date of assignment and the date on which the assignment has been recognised by the foreman;

(ii) a book containing the minute of the proceedings mentioned in section 11;

(iii) a book containing

(a) the amount paid by the subscribers and the dates of such payments and the amount of veethapalisa allowed to each subscriber,

(b) the amount paid to the prized-subscribers with the dates of such payments, and

(c) such other books as may be prescribed from time to time by the Government.

(2) Whoever defaults to keep the books, as required by this section, shall be liable to a fine not exceeding one hundred rupees.

Liability of the Foreman to subscribers.

17. (1) Every foreman shall be liable to the subscribers for the amount due to them.

(2) Where there are more foremen than one in a kuri each one of them shall be jointly and severally liable to the subscriber in respect of the obligations arising out of the kuri.

Withdrawal of a Foreman.

18. (1) When there are more foremen than one in a kuri, none of them shall withdraw from it unless such withdrawal is assented to in writing by all the non-prized subscribers.

(2) The writing referred to in sub-section (1) shall be filed by the foremen with the Registrar within 21 days from the date of the withdrawal, in default of which the foremen shall be liable to a fine not exceeding one hundred rupees.

PART IV.

Of Non-prized Subscribers.

Non-prized subscribers to pay subscriptions and get receipts 10 days' grace.

19. Every non-prized subscriber shall pay his subscription at the time and place mentioned in the vaimpu and shall, on such payment, be entitled to get a receipt from the foreman and notwithstanding anything contained in the vaimpu he shall also be entitled to 10 days' of grace from the due date to pay the subscription. In default of such payment, he shall be liable to such consequences as may be provided for in the vaimpu.

Removal of defaulting subscriber.

20. (1) If a non-prized subscriber defaults to pay his contribution in accordance with section 19, the foreman may remove him from the list of subscribers and substitute any other person

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in his place. Every such removal and substitution shall, with the dates thereof, be entered in the kuri books. A written notice of such removal and substitution shall be given by the foreman to the defaulting subscriber.

(2) A copy of the entry referred in sub-section (1) shall be filed by the foreman with the Registrar within 21 days from the dates of such removal and substitution, in default of which he shall be liable to a fine not exceeding fifty rupees.

21. A defaulting non-prized subscriber shall be entitled to recover from the foreman his contributions subject to such deductions as may be provided for in the vaimpu.—

The time when a non-prized defaulting subscriber is entitled to recover contributions.

(1) at the termination of the kuri, or

(2) at such other time as may be fixed in the vaimpu:

Provided always that the defaulter has notice of the event on the happening of which his cause of action accrues.

PART V.

Of Prized-Subscribers.

22. Every prized-subscriber shall, before drawing the prize amount, furnish sufficient security for the due payment of future subscriptions.

Prized subscriber to give security.

23. Every prized-subscriber shall pay his subscription regularly at the time and place mentioned in the vaimpu, and shall on such payment be entitled to get a receipt from the foreman. In default of such payment he shall, subject to section 24, be liable to such consequences as may be fixed in the vaimpu.

Consequences of prized-subscriber defaulting to pay his subscription.

24 (1). A foreman shall not be entitled to claim a consolidated payment of all the future subscriptions from a defaulting prized-subscriber unless he shall have demanded the same in writing and the subscriber has not paid all the instalments in arrears up to date with interest before the lapse of 30 days after the date of such demand:

Foreman to give notice in writing before demanding payment of all future subscriptions.

Provided in the case of legal representatives or persons jointly or severally liable notice to one of them is sufficient.

(2) If a consolidated collection of all the future subscriptions from a prized-subscriber is made by a foreman, he shall invest the amount due to future instalments in such bank or banks or other securities as may, from time to time, be approved

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of by the Government or as may have been mentioned in the vaimpu and announced the fact of such investment to the subscribers at the next instalment and the same shall be entered in the minute of proceedings of that instalment.

From any investment made under this sub-section, the amount of subscription to be paid by the defaulter for each instalment may be withdrawn from time to time as occasion arises for payment to future prize-winners.

PART VI.

Of Transfer.

Transfer of rights of foreman when voidable.

25. (1) Any voluntry or involuntary transfer of the rights of a foreman to receive subscriptions from prized-subscribers shall, if it defeats or delays a non-prized or unpaid prized-subscriber, be voidable at the instance of such subscriber.

(2) When under sub-section (1) of this section a transfer is disputed by a subscriber, the burden of proving that the transfer does not defeat or delay such subscriber is upon the transferee.

Transfer to be in writing.

26. Every transfer by a non-prized subscriber of his rights in the kuri shall be in writing.

Recognition of transfer by Foreman.

27. Every transfer of the rights of a non-prized subscriber shall be recognised unless the transfer was effected with a view to defeat the provisions of any law.

Entry of transferee's name in the book.

28. (1) Every transfer of the rights of a non-prized subscriber shall be entered by the foreman in the books of the kuri.

(2) A consolidated statement of such transfers shall be filed with the Registrar every three months, in default of which the foreman shall be liable to a fine not exceeding fifty rupees.

PART VII.

Of Termination of Kuri.

Provision for continuation of Kuri when Foreman dies or becomes of unsound mind.

29. When a foreman dies or becomes of unsound mind his legal representative or his guardian, as the case may be, shall, in the absence of any provision in the vaimpu to the contrary, take the place of the foreman and have the right to continue the kuri or to make suitable arrangements for the future conduct thereof.

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30. A kuri shall be deemed to have terminated

Termination of Kuri.

(1) when the legal representative of a deceased foreman or the guardian of a foreman of unsound mind does not continue the kuri or make suitable arrangements for the further conduct thereof as provided in section 29;

(2) when the period fixed in the vaimpu for the duration of the kuri has expired;

(3) when a foreman has been adjudicated an insolvent under the law relating to insolvent debtors;

(4) on the withdrawal of a foreman from the kuri;

(5) on the failure of the foreman to pay the prize amount to the subscriber within one month from the due date thereof or invest the same before the next instalment of the kuri or the withdrawal of the amount so invested contrary to sections 15 and 24; or

(6) on the failure of the foreman to conduct the kuri at any instalment, or on any other date before the next instalment as may be agreed upon in writing by a majority of the non-prized subscribers:

Provided however, that, if there are more than one foreman, the kuri shall not be deemed to have terminated under clauses (1), (3), and (4) if there is a provision to the contrary in the vaimpu or if the non-prized subscribers agree in writing to the conduct of the kuri by the remaining foreman or foremen.

31. A true copy of an agreement, mentioned in the proviso to section 30, shall, with the date thereof, be filed by the remaining foreman or foremen with the Registrar within 21 days from the date of the agreement, in default of which he or they shall be liable to a fine not exceeding one hundred rupees.

A copy of the agreement to be filed with the Registrar.

32. Except in the case of section 30 (2), every non-prized subscriber shall, unless otherwise provided for in the vaimpu and subject to the provisions of section 21, be entitled to get back his contributions at the termination of the kuri without any deduction for veethapalisa, if any, allowed to him.

Refund of non-prized subscriber's contribution.

33. When there are debts due from the foreman of a kuri in relation thereto and also other debts due from such foreman, the kuri assets shall be applied in the first instance for payment of the kuri debts due to the subscribers.

Preference of subscribers over other creditors

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PART VIII.

Of Inspection of Documents.

Inspection of Kuri books.

34. Any officer empowered by the Government in this behalf may inspect the kuri books, after giving due notice in writing to the foreman and every foreman shall allow such officer all reasonable facilties for inspection and shall furnish such information to him as he may require.

Inspection of security bonds.

35. Every foreman shall allow every non-prized subscriber all reasonable facilitites for inspection of security bonds taken from prized-subscribers on every kuri day at the time when and the place where the kuri is conducted.

Penalty for contravening sections 34 and 35.

36. Any foreman who contravenes the provisions of sections 34 and 35 shall be liable to a fine not exceeding one hundred rupees.

PART IX.

Registration Office and Fees.

Registration Office.

37. For the purpose of registration of kuries under this Regulation there shall be offices established at such places as the Government think fit.

Registrar.

38. The Government may appoint Registrars for the registration of kuries under this Regulation and may make rules with respect to their duties.

Inspection of documents in the Registrar's Office.

39. Any person may inspect the documents kept by the Registrar, on payment of such fees as may be fixed by the Government and any person may require a certificate of registration of any kuri or a copy or extract of any other document to be certified by a Registrar on payment for the certificate, certified copy or extract, of such fees as the Government fix.

40. (*Vide consideration of amendments.*)

PART X.

Miscellaneous.

Cognizance of offences.

41. No court inferior to that of a Magistrate of the second class shall try any offence under this Regulation and the Magistrate shall not take action except upon a report received from a Registrar of Kuries or upon a copmlaint by any other person with the consent of a Registrar of Kuries or any other authority to whom such Registrar is sub-ordinate, regarding such offence.

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42. The court imposing any fine under this Regulation may direct that the whole or any part thereof be applied in or towards payment of the cost of the proceedings or in or towards the rewarding of the person on whose information the fine is recovered.

Application of fine.

43. (1) Notwithstanding anything contained in section 262 of the Code of Criminal Procedure, 1086, any officer empowered by Government in this behalf may, at any time, on receipt of such compensation as may be fixed by such officer, compound any offence punishable under the foregoing provisions of this Regulation.

Compounding of offences.

(2) Such composition shall have the effect of an acquittal of the accused.

44. Whoever in any document, required by or for the purposes of any of the provisions of this Regulation wilfully makes a statement false in any material particular knowing it to be false shall be punishable with imprisonment of either description for a term which may extend to one year or with fine not exceeding one thousand rupees or with both.

Penalty for false statement.

45. No court shall award interest on claims for grain arising under this Regulation at more than twenty per cent per annum and on claims for money at more than twelve per cent per annum.

Rate of interest.

46. Nothing contained in the foregoing provisions of this Regulation shall affect the powers vested in courts for granting relief against any of the provisions contained in the vaimpu if the same be unconscionable or opposed to the provions of any law.

Power of Court to grant relief in certain cases.

47. The provisions of this Regulation shall not apply to a kuri if the kuri amount or the value thereof is less than one hundred rupees.

Saving of some Kuries.

48. (1) The Government may make rules consistent with this Regulation for

Power of Government to make rules.

(a) prescribing the procedure to be adopted by the Registrar in registering a vaimpu,

(b) prescribing the books to be kept by a foreman,

(c) providing for the safe custody of books, papers and documents in the Registrar's office and also for the destruction of such books, papers and documents as need no longer be kept, and

(d) generally for the purpose ofcarrying out the provisions of this Regulation.

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(2) All rules framed under sub-section (1) shall be published in the Government Gazette and shall thereupon have the force of law.

49 and 50. (1) & (2) (Vide consideration of the amendments.)

Section 50, sub-section (2) to apply to suits dismissed or withdrawn.

50. (3) Where a suit by a subscriber in any transaction partaking of the nature of kuries has been wholly or in part dismissed or withdrawn after the 24th Karkadagam 1097 and before the passing of this Regulation, either in a court of first instance or of appeal on the ground that the claim is illegalt as amounting to a lottery, the case may be restored on an application in writing to the court by which the claim was dismissed or in which it was withdrawn, provided the application is made within one year, from the date of passing of this Regulation and on such restoration, the provisions of sub-section (2) of this section shall apply.

Certain suits by a foreman to be allowed.

(4) No suit instituted by a foreman of a kuri to recover money lent or invested by him out of kuri amounts of any kuri which has been started before the coming into force of this Regulation shall be liable to be dismissed on the sole ground that the kuri is illegal as amounting to a lottery.

All the above clauses of the Bill were read and passed by the House.

Mr. C. A. Kunjunni Raja.—I move that the Bill be taken up and passed to-morrow.

Mr. C. J. Mathew.—I second it.

President.—The motion before the House that the Cochin Kuries Bill, as amended by the Select Committee and the Council, be taken up and passed to-morrow, the 4th of December.

Motion put and agreed to.

Resolutions on matters of General Public Interest.

7. Improvement of Communications.

Mr. P. Krishna Menon.—Sir, I have the honour to request the house to allow me to move the resolution standing in my name.

"This Council recommends to the Government that a special officer or Committee may be immediately appointed to consider and report upon the present state of communications in the State and also to suggest a definite programme and policy of developing and improving communications both by land and water."

I beg leave to assert that the resolution is comprehensive in more ways than one. But there are one or two minor points which I wish to dispose of before going into the real crux of the matter. The first is that I am not at all particular about the appointment of a Committee, if the Government thinks that

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